

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

IN RE: KEVIN LEONARD MANIGO, Debtor.	CHAPTER 13 CASE NO.: 22-30145-KLP
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U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 ACQUISITION TRUST C/O U.S. BANK TRUST NATIONAL ASSOCIATION, Movant, v. KEVIN LEONARD MANIGO, Debtor, AND CARL M. BATES Trustee, Respondents.	FILED PURSUANT TO 11 U.S.C SECTION 362

MOTION SEEKING RELIEF FROM STAY AND NOTICE OF HEARING THEREON
(10109 STANLEY COURT, SPOTSYLVANIA, VIRGINIA 22553)

NOTICE: Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in the motion, or if you want the Court to consider your views on the motion, then on or before the 14th day from the date of service of this Motion, you or your attorney must:

File with the court, at the address shown below, a written response pursuant to Local Bankruptcy Rule 9013-1. If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

United States Bankruptcy Court

Eastern District of Virginia
U.S. Bankruptcy Court
701 East Broad Street, Suite 4000
Richmond, VA 23219

You must also send a copy to:

Brandon R. Jordan,
Robertson Anschutz, Schneid, Crane &
Partners, PLLC
11900 Parklawn Drive
Suite 310
Rockville, MD 20852
Email: bjordan@raslg.com

And to:

Carl M. Bates
P. O. Box 1819
Richmond, VA 23218

Due to the COVID—19 public health emergency, no in-person hearings are being held. This hearing will take place remotely through Zoom on the date and time scheduled herein. To participate in hearings via Zoom for Government, e-mail a completed request form from the Court's website (<https://www.vaeb.uscourts.gov/>) to the following email address at least two business days prior to hearing:

For Judge Phillips' chambers: EDVABK-ZOOM-Judge_Phillips@vaeb.uscourts.gov

Attend the hearing scheduled for June 22, 2022 9:00 A.M. via video conference rather than Courtroom 5100 of 701 East Broad Street, Richmond, VA 23219.

If you or your attorney do not take these steps, the Court may decide you do not oppose the relief sought in the Motion and may enter an Order Granting that Relief without holding a hearing.

Brandon R Jordan
Virginia Bar # 72170
Robertson, Anschutz, Schneid, Crane &
Partners PLLC
11900 Parklawn Drive
Suite 310
Rockville, MD 20852
Telephone: 844-442-2150
Fax: 240-238-2767
Email: bjordan@raslg.com

MOTION SEEKING RELIEF FROM STAY

Comes now U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 ACQUISITION TRUST C/O U.S. BANK TRUST NATIONAL ASSOCIATION (the “Movant”), a secured creditor, by Counsel, and moves this Honorable United States Bankruptcy Court for Relief from the Stay imposed by 11 U.S.C. Section 362(a) and in support thereof, states as follows:

1. This Motion is filed pursuant to 11 U.S.C. Section 362(d) and Rules 4001 and 9014 of the Bankruptcy Rules, as hereinafter shall more fully appear.

2. Movant is a secured creditor of the Debtor whose claim is based upon a certain Note dated February 24, 2005 in the principal amount of \$210,900.00 and executed by Kevin L. Manigo (“Debtor”). The total amount due, including the unpaid principal balance of \$157,540.87 due under said Note as of May 07, 2022, interest of \$22,818.72 at the Note rate, late charges and attorney's fees and costs was approximately \$191,291.49. A copy of an estimated payoff statement is attached hereto, marked as Exhibit A, as is a copy of the said Note, marked as Exhibit B. Repayment of said Note is secured by that certain Deed of Trust dated February 24, 2005 recorded among the land records of Spotsylvania County, Virginia, which property has the address of 10109 Stanley Court, Spotsylvania, Virginia 22553 and which is more particularly described in the Deed of Trust as:

Legal Description

All that certain lot or parcel of land with all buildings and improvements thereon, situate, lying and being in Courtland Magisterial District, Spotsylvania County, Virginia, described as LOT 36, SECTION 2, FAIRFIELD WOODS, as shown on plat of SUBDIVISION, SECTION TOW, FAIRFIELD WOODS, made by Sullivan, Donahoe and Ingalls, dated December 3, 1987, and recorded in the Clerk's Office of the Circuit Court of Spotsylvania County, Virginia, in Plat File 2, at Pages 251 and 252.

A copy of said Deed of Trust and Assignment of Deed of Trust, if any, is attached hereto, marked as Exhibit C, and expressly made a part hereof.

3. Secured Creditor is the holder of the note (“noteholder”), and is either the original mortgagee, beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to noteholder or has been duly endorsed.

4. On January 19, 2022, the United States Bankruptcy Court for the Eastern District of Virginia entered an Order for Relief under 11 U.S.C. Chapter 13 upon a petition filed by Kevin Leonard Manigo as Case No. 22-30145-KLP.

5. Debtor has failed to make any post-petition payments to the Movant, and is therefore in default, post-petition as of May 07, 2022, as follows:

One regular monthly payment @ \$1,031.63 each	\$1,031.63
02/01/2022	
Two regular monthly payments @ \$1,061.58each	\$2,123.16
03/01/2022-04/01/2022	
1 regular monthly payments @ \$1,068.66 each	\$1,068.66
05/01/2022	
Estimated attorney's fees (\$850.00) and costs (\$188.00) for representation in this proceeding	\$1,038.00

TOTAL \$5,261.45

A copy of the post-petition payment history is attached hereto, marked as Exhibit D, and expressly made a part hereof.

6. Debtor filed the instant case on the eve of a scheduled foreclosure sale. Debtor’s Chapter 13 Plan indicates that Debtor does not have sufficient income to make regular mortgage payments. Debtor proposed to sell the home by August of 2022 to pay Movant’s lien in full, but as of his confirmation hearing, the Property had not even been listed for sale nor were any realtors engaged. By reason of the foregoing, the Movant lacks adequate protection for its

security interest and is, and continues to be, irreparably harmed by the continuation of stay of 11 U.S.C. Section 362(a) and that therefore cause exists for the termination thereof.

7. The Spotsylvania County tax assessment states that the subject property has a current value of \$279,500.00.

8. Upon entry of an Order terminating the stay of 11 U.S.C. Section 362(a), the Movant should be free to take such actions with respect to the subject property as are set forth under applicable non-bankruptcy law (i.e. modification, short sale and other loss mitigation options), and should be relieved from any further filing requirements pursuant to Fed. R. Bankr. P. 3002.1(b)-(c).

WHEREFORE, Secured Creditor, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) so that the undersigned may proceed to enforce its security interest in the subject property by: (i) instituting or continuing foreclosure proceedings against the subject property in state court, (ii) allowing the successful purchaser at the foreclosure sale to obtain possession of the subject property, (iii) allowing it to take such other actions with respect to the subject property as are set forth under applicable non-bankruptcy law, (iv) relieving it, its successors and/or assigns from any further filing requirements pursuant to Fed. R. Bankr. P. 3002.1(b)-(c) if the stay is ultimately and unconditionally lifted or terminated, and (v) that the Order be binding and effective upon the Debtor despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

NOTICE OF INTENT TO SUBMIT BUSINESS RECORDS

The Movant will submit business records as evidence at any scheduled hearing, as allowed under Fed. R. Bankr. P. 9017 and FRE 902(11). These business records and the

declaration of their maintenance as business records are available for inspection by the adverse party upon demand.

NOTICE

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not wish the Court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then within 14 days from the date of service of this motion, you must file a written response explaining your position with the Court and serve a copy on the movant. Unless a written response is filed and served within this 14-day period, the Court may deem opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the 14-day period.

You will be notified separately of the hearing date on the motion.

Date: May 12, 2022

**Robertson Anschutz, Schneid, Crane &
Partners, PLLC**

/s/ BRANDON R. JORDAN

Brandon R. Jordan, Esquire

VA Bar No. 72170

Robertson Anschutz, Schneid, Crane &
Partners, PLLC

11900 Parklawn Drive, Suite 310

Rockville, MD 20852

Telephone: 844-442-2150

Email: bjordan@raslg.com

CERTIFICATE OF SERVICE

I certify that on May 12, 2022, a true copy of the foregoing Motion Seeking Relief from Stay was served upon all necessary parties by electronic mail or by first class U.S. Mail, with adequate postage prepaid on the following persons or entities at the addresses stated:

VIA U.S. Mail:

Kevin Leonard Manigo
10109 Stanley Ct
Spotsylvania, VA 22553
SPOTSYLVANIA-VA

Via CM/ECF Electronic Notification:

Carl M. Bates
P. O. Box 1819
Richmond, VA 23218

John P. Fitzgerald, III
Office of the US Trustee - Region 4 -R
701 E. Broad Street, Ste. 4304
Richmond, VA 2321

Henry W. McLaughlin, III
The Law Office of Henry McLaughlin, P.C.
Eighth and Main Building
707 East Main Street
Suite 1050
Richmond, VA 23219

**Robertson Anschutz, Schneid,
Crane & Partners, PLLC**

/s/ BRANDON R. JORDAN

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